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THE PROGRESS OF TAXATION—DISCUSSION

FRANK L. McVEY: It is impossible in the brief time allotted to me for the discussion of Professor Seligman's paper to deal with more than one phase of the question. I shall therefore confine my remarks to the practice of taxation.

To the observer a noticeable improvement in the administration of tax laws has taken place in many of the commonwealths of the nation, and with this change for the better have come some results which are to be seen in the more equal assessment of real property and in somewhat easier collection of taxes. The books have continued to discuss the worthlessness of the general property tax system, and at the same time have ignored the bettered administration that has come into vogue in the last few years. We have by no means gotten out of the laws already on the statute books all that can be secured from them through better administration, and it may be said that the progress of taxation will necessarily be in this direction rather than along the theoretical. No invective is made against theory in this statement, but the practical problem must necessarily be sensed before we can really form a theory about it, and this is the reason why practice bears such an important relation to the science of finance.

While there is a marked movement toward indirect taxation, so far as it applies to corporations, the old view regarding the justice and wisdom of the general property tax dies hard. The faculty theory of tax burdens probably prevails in most of our commonwealths, but the determination of ability to pay is felt to be measured by

the amount of property a man owns. This tendency to separate state revenues from local taxation is looked upon in some of the commonwealths as undesirable and really against public policy. The Oregon Tax Commission in its report for 1906 says "the general property tax is certainly elastic and self-regulating, which cannot be said of the indirect methods of raising revenues for state purposes." And the Wisconsin Tax Commission, while undoubtedly favoring certain indirect taxes, nevertheless believes that the assessment of all property in the state should be on a uniform basis, and all taxes levied for state purposes levied on the general assessment. In accordance with this view, it has steadily maintained that the assessment of the railway properties in Wisconsin and the levying against that assessment of the average tax rate was a more satisfactory and equitable system than that found in Minnesota and other states where gross earnings are taxed at a certain flat rate. Nevertheless, in Wisconsin, while the Tax Commission has authority over the assessment for state purposes, its assessment is not taken in the municipalities and counties for the basis of the local taxes, so that the irregularities of the local assessment still continue despite the work of the Tax Commission. In Minnesota, where the Tax Commission has authority over the entire assessment, the irregularities that are to be found in the case of the assessment of property in the different localities find their way into the return of taxation for general purposes, since the tax rate on local assessments includes the state rate as well. The tendency in this commonwealth is to develop special corporation taxes, which shall put the taxation of such organizations into the hands of the state and remove them from the authority of the local assessors.

In both of these commonwealths extended reports have

been made to the legislature. Many of the suggestions of the Wisconsin Commission have been accepted in so far as they apply to the betterment of the law, but in Minnesota practically nothing has come out of the suggestions of the Tax Commission so far as legislation is concerned. At the last meeting of the legislature in that state in 1909 suggestions were made for a county assessor system, for a change in the basis of assessment, for a state-wide method of taxing corporations, for modifications of the inheritance tax law, and for the extension of the gross earnings tax, so successful in the case of railways, to all public utilities corporations. Out of these suggestions, possibly because of the multitude of bills offered under the wide-open amendment of the Constitution, no legislation resulted.

The most notable piece of work done by the Minnesota Tax Commission was in the instance of the assessment of the iron ore properties of the state. This piece of work was based upon a rather far-reaching scientific method of getting at ore values. In the assessment of 1909, this Commission endeavored through the local assessors and county boards of equalization to secure a more satisfactory assessment. The result of the final assessment adjusted for the first time by the Tax Commission was received with general satisfaction throughout the state, but largely because the Commission was satisfied to make small changes here and there, except in the way of leveling up the assessment throughout the state. The basis of assessment in the law was the full value of the property, but in view of the practice which had existed in previous years, the Commission had asked the legislature for a reënactment of the clause. This, however, was not done, nor did the legislature feel that it could enact a forty per cent valuation, since it would mean a lower assessment

for the cities and a higher one for the country; but the law makers did call upon the Tax Commission to leave the matter as it stood. In this incident is the whole key to the situation,—the fear that existing conditions will be disturbed and some group called upon to pay more taxes.

In the report of 1907, on page 169, the Wisconsin Tax Commission says: "But the fact remains that for the past four years there has been no improvement in the state as a whole, but rather the reverse; that the average local assessment of today is not more than about two-thirds the full value, and omissions, or partial omissions and inequalities are the rule rather than the exception, or a very common occurrence at least....."

"It may be doubted whether in the matter of uniformity between assessments there has been any material improvement over the old régime, except as between districts within the same county, where an efficient supervisor of assessment has been employed."

No amount of theory is going to change this situation. The problem is fundamentally administrative, and only as the administration is improved in some directions and broken down in others will the legislation regarding taxation be materially modified in the different commonwealths. The time is coming in the near future, if it is not already at hand, when the tax as administered will be one thing and the law on the statute books another. By a slow, insistent process the administered law will become dominant, and when recognized will be made into statute law with some improvements. So, step by step, the tax law will grow better. But the confusion now existing is likely to be added to rather than decreased by the demands that are being made for a federal system of inheritance, income, and corporation taxes. In my opinion, the states will not yield their right to tax

corporation incomes or inheritances, since the burden of government will fall upon the commonwealths with increasing weight rather than with less. One has but to call to mind the cost of education, of building roads and bridges, of care of the insane, of the punishment of criminals, the maintenance of courts, and of the general socialization of governmental action, to have brought forcibly to the attention the fact that the states must have revenue quite as much as the federal government.

To raise the discussion and agitation regarding the taxing function of the federal government will retard rather than accelerate the solution of the problem as it is now found in the commonwealth. Clear conceptions of the incidence of taxation, of the meaning of the faculty theory, and of the real vital interest of the citizen in an equitable and fair system must be clearly indicated before we can hope for much betterment in the actual legislation on the statute books, though a good deal of improvement will be made as the administration and the personnel of the administrators changes for the better.

HENRY HIGGS: I regret that as an official of the British Treasury I feel precluded from complying with the invitation to make a public pronouncement upon Taxation in England or upon the Finance Bill which has given rise to so much discussion, financial and constitutional. I have found very great interest taken in the subject by American friends, but their criticisms of it are in almost all cases based upon misapprehension of the actual proposals.

It is difficult for me to offer any critical observations upon the subject now before you, before the discussion has proceeded further, as I am in complete agreement with Professor Seligman. Evidently taxation might be used

not only as an engine of finance, but also as a great instrument for affecting social relations in other directions. A striking example is the Australian federal legislation imposing customs duties upon, for example, agricultural implements, with a corresponding excise duty, and a rebate equivalent to the excise duty upon such articles produced in Australia under fair and reasonable conditions as to employment. This throws upon the courts the difficult tasks of determining whether this indirect regulation of labor and industry by the federal government infringed the constitutional rights of the states to which such regulations has been reserved, and also what is a fair wage in a given industry at a given time. No such extensive use of the taxing power has been attempted in England.

Upon the question whether a particular proposed extension of estate duties, for example, is open to objection as a tax upon capital, threatening to strike at the productive power of the country more seriously than if the same amount of money were raised by additional taxes upon income, I suggest that Professor Irving Fisher's luminous description of capital as a fund and interest as a flow, the one a lake or reservoir, the other a stream, points to the conclusion that it matters little if water is wanted whether we take it from the river or the lake so long as the supply is not drained dry.